

1-1 By: Carona S.B. No. 849
 1-2 (In the Senate - Filed February 26, 2013; March 5, 2013,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 March 18, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 18, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 849 By: Carona

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to social purposes of a for-profit corporation and the
 1-22 consideration of social purposes and other interests by officers
 1-23 and directors of a for-profit corporation.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 1.002, Business Organizations Code, is
 1-26 amended by adding Subdivision (82-a) to read as follows:

1-27 (82-a) "Social purposes" means one or more purposes of
 1-28 a for-profit corporation that are specified in the corporation's
 1-29 certificate of formation and consist of promoting one or more
 1-30 positive impacts on society or the environment or of minimizing one
 1-31 or more adverse impacts of the corporation's activities on society
 1-32 or the environment. Those impacts may include:

1-33 (A) providing low-income or underserved
 1-34 individuals or communities with beneficial products or services;

1-35 (B) promoting economic opportunity for
 1-36 individuals or communities beyond the creation of jobs in the
 1-37 normal course of business;

1-38 (C) preserving the environment;

1-39 (D) improving human health;

1-40 (E) promoting the arts, sciences, or advancement
 1-41 of knowledge;

1-42 (F) increasing the flow of capital to entities
 1-43 with a social purpose; and

1-44 (G) conferring any particular benefit on society
 1-45 or the environment.

1-46 SECTION 2. Section 3.007, Business Organizations Code, is
 1-47 amended by adding Subsection (d) to read as follows:

1-48 (d) Notwithstanding Section 2.008, a for-profit corporation
 1-49 may include one or more social purposes in addition to the purpose
 1-50 or purposes required to be stated in the corporation's certificate
 1-51 of formation by Section 3.005(a)(3). The corporation may also
 1-52 include in the certificate of formation a provision that the board
 1-53 of directors and officers of the corporation shall consider any
 1-54 social purpose specified in the certificate of formation in
 1-55 discharging the duties of directors or officers under this code or
 1-56 otherwise.

1-57 SECTION 3. Subsection (a), Section 21.101, Business
 1-58 Organizations Code, is amended to read as follows:

1-59 (a) The shareholders of a corporation may enter into an
 1-60 agreement that:

2-1 (1) restricts the discretion or powers of the board of
2-2 directors;
2-3 (2) eliminates the board of directors and authorizes
2-4 the business and affairs of the corporation to be managed, wholly or
2-5 partly, by one or more of its shareholders or other persons;
2-6 (3) establishes the individuals who shall serve as
2-7 directors or officers of the corporation;
2-8 (4) determines the term of office, manner of selection
2-9 or removal, or terms or conditions of employment of a director,
2-10 officer, or other employee of the corporation, regardless of the
2-11 length of employment;
2-12 (5) governs the authorization or making of
2-13 distributions whether in proportion to ownership of shares, subject
2-14 to Section 21.303;
2-15 (6) determines the manner in which profits and losses
2-16 will be apportioned;
2-17 (7) governs, in general or with regard to specific
2-18 matters, the exercise or division of voting power by and between the
2-19 shareholders, directors, or other persons, including use of
2-20 disproportionate voting rights or director proxies;
2-21 (8) establishes the terms of an agreement for the
2-22 transfer or use of property or for the provision of services between
2-23 the corporation and another person, including a shareholder,
2-24 director, officer, or employee of the corporation;
2-25 (9) authorizes arbitration or grants authority to a
2-26 shareholder or other person to resolve any issue about which there
2-27 is a deadlock among the directors, shareholders, or other persons
2-28 authorized to manage the corporation;
2-29 (10) requires winding up and termination of the
2-30 corporation at the request of one or more shareholders or on the
2-31 occurrence of a specified event or contingency, in which case the
2-32 winding up and termination of the corporation will proceed as if all
2-33 of the shareholders had consented in writing to the winding up and
2-34 termination as provided by Subchapter K; [~~or~~]
2-35 (11) with regard to one or more social purposes
2-36 specified in the corporation's certificate of formation, governs
2-37 the exercise of corporate powers, the management of the operations
2-38 and affairs of the corporation, the approval by shareholders or
2-39 other persons of corporate actions, or the relationship among the
2-40 shareholders, the directors, and the corporation; or
2-41 (12) otherwise governs the exercise of corporate
2-42 powers, the management of the business and affairs of the
2-43 corporation, or the relationship among the shareholders, the
2-44 directors, and the corporation as if the corporation were a
2-45 partnership or in a manner that would otherwise be appropriate only
2-46 among partners and not contrary to public policy.

2-47 SECTION 4. Section 21.401, Business Organizations Code, is
2-48 amended by amending Subsection (b) and adding Subsections (c), (d),
2-49 and (e) to read as follows:

2-50 (b) In discharging the duties of director under this code or
2-51 otherwise and in considering the best interests of the corporation,
2-52 a director is entitled to [~~may~~] consider the long-term and
2-53 short-term interests of the corporation and the shareholders of the
2-54 corporation, including the possibility that those interests may be
2-55 best served by the continued independence of the corporation.

2-56 (c) In discharging the duties of a director under this code
2-57 or otherwise, a director is entitled to consider any social
2-58 purposes specified in the corporation's certificate of formation.

2-59 (d) Subject to direction by the board of directors of the
2-60 corporation, in discharging the duties of an officer under this
2-61 code or otherwise, an officer is entitled to consider:

2-62 (1) the long-term and short-term interests of the
2-63 corporation and of the corporation's shareholders, including the
2-64 possibility that those interests may be best served by the
2-65 continued independence of the corporation; and

2-66 (2) any social purposes specified in the corporation's
2-67 certificate of formation.

2-68 (e) Nothing in this section prohibits or limits a director
2-69 or officer of a corporation that does not have a social purpose

3-1 specified as a purpose in the corporation's certificate of
3-2 formation from considering, approving, or taking an action that
3-3 promotes or has the effect of promoting a social, charitable, or
3-4 environmental purpose.

3-5 SECTION 5. This Act takes effect September 1, 2013.

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